

01- R-0141

Entered - 02/03/99 - sb
CL99L0047 - DIANNE C. MITCHELL

CLAIM OF: FRED BOYAJIAN,
through his attorney,
Brian Pastor
1401 Peachtree Street, NE
Suite 240
Atlanta, Georgia 30309

For damages alleged to have been sustained as a result of repairs
made to City sewer system on March, 1998 through May, 1998 at
3720 Paces Valley Road, NW.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY *Robert M. Cif DCA*

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0047

Date: January 16, 2001

Claimant /Victim **FRED BOYAJIAN**

BY: (Atty) Brian Pastor

Address: 1401 Peachtree Street, NE, Suite 240, Atlanta, Georgia 30309

Subrogation: _____ Claim for Property damage \$ 164,776.67 Bodily Injury \$ _____

Date of Notice: 05/21/98 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 03/98-05/98 Place: 3720 Paces Valley Road

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that his property has been damaged during the maintenance of the City's sewer system. However, the claimant has filed a lawsuit to resolve the issues raised in his claim.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures X Diagrams _____ Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

Improper Notice _____ More than Six Months _____ Other ☒ Damages reasonable _____

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent	City Negligent	Joint	Claim Abandoned
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Respectfully submitted,

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse ☒ Account charged: 1A01 2J01 2H01

Claims Manager: Chris Kuster Concur/date 01-16-01

Committee Action: _____ **Council Action:** _____

DILLARD & GALLOWAY, LLC

ATTORNEYS AT LAW

230 PEACHTREE STREET, S.W.
SUITE 2000
ATLANTA, GEORGIA
30333

G. DOUGLAS DILLARD

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(404) 965-3000
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(404) 965-3070DIRECT FAX NUMBER: ENTERED - 2-3-99 - SB
(404) 965 3682 9910047 - DIANNE MITCHELL

May 21, 1998

**Via Facsimile and
U.S. Mail Delivery**

Mr. Charles Richards
Deputy Commissioner of Public Works
City of Atlanta
68 Mitchell Street, S.W.
Suite 4700
Atlanta, GA 30335

Re: Repairs to Sewer Line, Nancy Creek Trunk, 3720 Paces Ferry Road, N.W.

Dear Mr. Richards:

We have been retained by Mr. Fred Boyajian in reference to the failure of the City of Atlanta to complete work at the aforementioned location in accordance with the Right of Entry Agreement executed by you on behalf of the City of Atlanta on March 9, 1998. The property owner's property has been extensively damaged and destroyed as a result of the manner in which the City has attempted to repair this sewer. The repairs that have been done to date have not been done satisfactorily and without the property owner's approval. The property owner has suffered irreparable harm and damage as a result of the City's failure to repair this sewer trunk line in accordance with the above-referenced Right of Entry Agreement.

This is to put you on notice that Mr. Boyajian intends to file a claim against the City of Atlanta for damages incurred to his property including, but not limited to, damages to the landscaping, driveway, shrubs, flowers and trees, together with the loss of enjoyment he had previously experienced on his property. The interference associated with the number of employees and vehicles which have intruded onto his property has been unbearable. The fact that he has not been able to enjoy his home as his principal residence with the peace and quiet which we all expect as a part of our residential use was not anticipated at the time he signed the Right of Entry Agreement.

Mitchell
01/26/99
Dm

Mr. Fred Boyajian
Page Two
May 28, 1998

The following are issues that require further discussion.

1. Replanting of unknown type and number of trees.
2. Place additional gabion baskets along side tributary in two additional areas.

Please let us know if you disagree with the contents of this letter.

Sincerely,



Sylvester Richards
Public Works Manager

SR/sib

cc: Charles Richards, Deputy Commissioner, DPW

01-2-0141